

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA**

Joint Application of	:	
	:	
Windstream KDL, LLC, and	:	
Business Telecom, LLC, Sellers,	:	
	:	
and	:	
	:	
Uniti Group Finance Inc. and	:	Docket No. _____
Uniti National LLC, Purchasers,	:	
	:	
For Approval for Sellers to Transfer Certain	:	
Assets to Purchasers	:	
	:	

**JOINT APPLICATION FOR APPROVAL OF
THE TRANSFER OF ASSETS**

Windstream KDL, LLC (“Windstream KDL”), Business Telecom, LLC (“Business Telecom”) (together, the “Windstream Licensees” or “Sellers”), Uniti Group Finance Inc. (“Uniti Group Finance”), and Uniti National LLC (“Uniti National” and together with Uniti Group Finance, “Purchasers”) (Purchasers and Sellers collectively, “Applicants”) respectfully request approval by the Public Service Commission of South Carolina (the “Commission”), to the extent required pursuant to S.C. Code Ann. § 58-9-310, for Sellers to transfer certain fiber optic assets to Purchasers¹ (the “Transaction”).

The Transaction is part of a larger Settlement Agreement between Windstream Holdings, Inc. (ultimate parent company of Windstream Licensees) (“Windstream”) and Uniti Group Inc. to

¹ Uniti Group Finance is currently the party that has the right to acquire the fiber optic assets from the Sellers under the Agreement (as defined below). As described below, prior to the consummation of the Transaction, Uniti Group Finance will assign the right to acquire certain of the fiber optic assets to Uniti National.

resolve a number of disputes between the two organizations. Windstream and its subsidiaries, including the Windstream Licensees (collectively, the “Debtors”) filed voluntary petitions for reorganization under Chapter 11 of the Bankruptcy Code.² On April 20, 2020, Debtors and Uniti Group Inc., along with their relevant subsidiaries, agreed to enter into series of agreements intended to settle all disputes between Windstream and Uniti, including an Asset Purchase Agreement (the “Agreement”). Under the Agreement, Uniti Group Finance will acquire certain assets of Debtors’ competitive telecommunications subsidiaries. Prior to consummation of the Agreement, Uniti Group Finance intends to effect a partial assignment of its rights under the Agreement to its subsidiary, Uniti National, such that Uniti National and United Group Finance will each have the right to acquire specified assets from the Sellers. Importantly, the transfer of assets does not include any of those owned or controlled by Windstream’s incumbent local exchange carrier subsidiaries, and in practical terms will have no effect on the nature, quality, quantity, or price of the services offered in South Carolina by any Windstream subsidiaries, including both its incumbent and competitive carrier operations. The Settlement Agreement, including the Agreement and Transaction addressed by this Application, was approved by the Bankruptcy Court in an order issued on May 12, 2020.³

The consummation of the Transaction is a necessary component for Debtors to exit Chapter 11.⁴ Given that Sellers remain under bankruptcy court protection, that the consummation of the Transaction is a necessary component for Debtors to exit Chapter 11 bankruptcy protection, and

² *In re Windstream Holdings, Inc.*, Chapter 11, Case No. 19-22312, U.S. Bankr. Court (S.D.N.Y.). The website of Debtors’ claims and noticing agent includes a complete list of the debtor entities and is available at <http://www.kccllc.net/windstream>.

³ *See* Order Approving the Settlement Between the Debtors and Uniti, Case No. 19-22312 (Bank. S.D.N.Y. entered May 12, 2020), *appeal pending*.

⁴ Debtors have sought Commission approval related to the indirect transfer of control as a result of its Chapter 11 restructuring in a recently-filed Joint Application (2020-140-C).

that the Bankruptcy Court has approved the Settlement Agreement and Transaction, Applicants submit that it would serve the public interest to complete the Transaction as quickly as possible, and therefore urge that the Commission promptly approve this Application at the earliest possible date, which will in turn allow the Sellers to emerge from Chapter 11.

In support of this filing, Applicants provide the following information:

I. DESCRIPTION OF THE APPLICANTS

A. Sellers

Windstream Licensees are wholly owned subsidiaries of Windstream. Windstream is a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas 72212, with stock traded in the “Over the Counter” (“OTC”) market under the symbol “WINMQ” and through its subsidiaries, is a leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations, and wholesale customers across the United States. Windstream’s subsidiaries, including the Windstream Licensees, provide voice and data services that enhance the communication capabilities of consumers and businesses in the United States. In addition, Windstream’s operating subsidiaries supply core transport solutions on a local and long-haul fiber network currently spanning approximately 150,000 route miles.

Windstream does not provide telecommunications services in its own right. Instead, it owns and operates a number of licensed telecommunications providers in the District of Columbia and all states, many of which also hold authority from the Federal Communications Commission to provide intrastate and interstate telecommunications services. In South Carolina, the Windstream Licensees hold the following authorizations from the Commission to provide local exchange and interexchange services:

- Business Telecom, LLC, a North Carolina limited liability company, is authorized to provide local exchange services pursuant to Commission authority in Docket No. 1988-627-C, and resold interexchange services pursuant to Commission authority in Docket No. 1988-627-C.
- Windstream KDL, LLC, a Kentucky limited liability company, is authorized to provide local exchange and interexchange service pursuant to Commission authority in Docket No. 2008-16-C.

B. Purchasers

Uniti Group Finance is a Delaware corporation, and Uniti National is a Delaware limited liability company. Both are headquartered at 10802 Executive Center Drive, Suite 300, Little Rock, Arkansas 72211, and each is a subsidiary of Uniti Group Inc. (“Uniti Group” and together with its subsidiaries, “Uniti”), a Maryland corporation headquartered at the same address. Uniti Group is a publicly traded real estate investment trust that engages in the acquisition and construction of infrastructure utilized by the communications industry. Uniti Group does not provide telecommunications services in its own right. It owns and operates a number of licensed telecommunications providers in the District of Columbia and a number of states. As described further below, neither Uniti Group Finance nor Uniti National is currently engaged in the provision of telecommunications services in South Carolina or elsewhere, and as such, neither currently holds a Certificate or other similar authority in South Carolina. To the extent Uniti National (or any other subsidiary of Uniti) plans to begin providing regulated telecommunications services in South Carolina, it will seek authority from the Commission at that time.⁵

⁵ Southern Light, LLC (“Sothorn Light”) and Uniti Fiber LLC (“Uniti Fiber”) are affiliates of Uniti National that hold authority from the Commission to provide local exchange and interexchange telecommunications services granted in Docket Nos. 2017-294-C and 2017-147-C, respectively. Southern Light and Uniti Fiber may utilize some of the fiber assets transferred to Purchasers to provide telecommunications services in South Carolina through intercompany lease arrangements.

II. CONTACTS

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following.

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III. BACKGROUND AND DESCRIPTION OF THE TRANSACTION

Windstream and its subsidiaries sought voluntary bankruptcy protection under Chapter 11 of the Bankruptcy Code in the Southern District of New York in February 2019. Beginning August 2019, Windstream and Uniti engaged in mediation overseen by the Bankruptcy Court to address certain claims the organizations had against one another. On April 20, 2020, Windstream and Uniti entered into a settlement agreement intended to address those claims, which will ultimately allow Windstream to emerge from Chapter 11. As part of the settlement agreement, the parties have entered into the Agreement, through which Uniti Group Finance will acquire certain Windstream fiber assets currently owned by some of Windstream's competitive local exchange carrier subsidiaries. Specifically, under the Agreement the Sellers and other Windstream subsidiaries will sell roughly 3,966 fiber route miles nationwide to Uniti Group Finance and, pursuant to a partial assignment of the Agreement prior to consummation, to Uniti National. Uniti will then grant an indefeasible right of use ("IRU") to Windstream's subsidiaries having an initial term of 20 years for those fiber assets that Windstream's subsidiaries use to provide services, along with additional fibers to provide Windstream's subsidiaries with spare capacity. Uniti Group Finance and Uniti National will thus have access to sublease or otherwise utilize those fiber assets that are not being granted back to Windstream's subsidiaries.

The Transaction will not interfere with the ability of any Windstream company to provide its services. To the contrary, Windstream's subsidiaries will retain access to the fiber assets they currently use to provide service through an IRU having an initial term of 20 years. Uniti Group Finance and Uniti National will be able to lease to their affiliates or third parties or otherwise utilize those fiber assets that are not granted back to Windstream's subsidiaries.

The net result of the Transaction is that Uniti will purchase certain fiber assets from Windstream's competitive local exchange carrier subsidiaries, including the Windstream Licensees in South Carolina. Uniti will retain access to a substantial portion of the fiber assets that are currently unused, and Windstream's subsidiaries will retain access to those fiber assets currently used in South Carolina to provide services to customers, plus additional fibers to provide Windstream's subsidiaries with spare capacity.

The Transaction will be transparent to Sellers' customers, who will continue to receive services from Windstream's subsidiaries as they do today.

IV. PUBLIC INTEREST CONSIDERATIONS

Applicants respectfully submit that the proposed Transaction serves the public interest. The Transaction is part of the court-approved resolution of the disputes between Windstream and Uniti Group, and is part of the process of allowing Windstream and its subsidiaries to emerge from Chapter 11. The Transaction is a key component of a settlement between Windstream and Uniti which will maintain access to the fiber assets required by the Windstream Licensees (in South Carolina) and other Windstream entities around the country to serve existing (and potential new) customers. In return, Uniti will receive access to unused fiber assets in South Carolina and elsewhere that it can itself sell, lease, or otherwise utilize. As such, the proposed Transaction will have no adverse impact on the customers of the Windstream Licensees, and will be transparent to

its customers. Immediately following the Transaction, Windstream Licensees will continue to provide service to its existing customers at the same rates, terms, and conditions, as governed by its existing contracts.

V. CONCLUSION

WHEREFORE, for the reasons set forth above, Applicants request the Commission grant all authority necessary for Sellers to transfer certain fiber assets to Purchasers as described herein.

Respectfully submitted,

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